

Report on the

# Board of Boilers and Pressure Vessels

Montgomery, Alabama



## Department of Examiners of Public Accounts

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October 24, 2007

Senator Larry Dixon  
Chairman, Sunset Committee  
Alabama State House  
Montgomery, AL 36130

Dear Senator Dixon,

This report was prepared to provide information for use by the Sunset Committee in conducting its review and evaluation of the operations of the **BOARD of BOILERS and PRESSURE VESSELS** in accordance with the *Code of Alabama 1975*, Section 41-20-9.

The report contains unaudited information obtained from the management, staff, and records of the **BOARD of BOILERS and PRESSURE VESSELS**, in addition to information obtained from other sources.

Please contact me if you have any questions concerning this report.

Sincerely,



Ronald L. Jones  
Chief Examiner

Examiners  
Janet Berry  
Chris Parish



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## **PROFILE**

### **Purpose/Authority**

The Alabama Board of Boilers and Pressure Vessels was established effective July 1, 2000 by *Acts of Alabama*, Act 2000-315 as part of a program to ensure the safety of boilers and pressure vessels operating in the state. The board functions as an advisory board to the Commissioner of Labor, who administers the program. The program regulates the construction, installation, inspection, maintenance, and repairs of boilers and pressure vessels and certifies the competency of persons performing inspections of boilers and pressure vessels. Statutory authority for operation of the program is found in the *Code of Alabama 1975*, Sections 25-12-1 through 25-12-22.

### **Characteristics**

<b>Members and Selection</b>	9 Members consisting of the Commissioner of Labor (or his designee) and eight (other members) appointed by the commissioner.  <i>Code of Alabama 1975 §25-12-3</i>
<b>Term</b>	Four (4) years for members appointed by the Commissioner of Labor. The Commissioner of Labor serves ex officio.  <i>Code of Alabama 1975 §25-12-3</i>
<b>Qualifications</b>	Of the eight appointed members, the majority of whom shall be registered, professional engineers when available, <ul style="list-style-type: none"><li>• One representative of owners and users of power boilers</li><li>• One representative of owners and users of heating boilers</li><li>• One representative of owners and users of pressure vessels</li><li>• One representative of boiler or pressure vessel manufactures</li><li>• One representative of the crafts involved in the construction, repair, or operation of boilers or pressure vessels</li><li>• One representative of the heating contractors</li><li>• One representative of a company licensed to insure and insuring in this state boilers and pressure vessels</li><li>• One representative of the public</li></ul> The majority of board member shall have experience in design, construction, inspection, repair, or operations of boilers or pressure vessels.  <i>Code of Alabama 1975 §25-12-3</i>

<b>Racial Representation</b>	No statutory requirement. No minority race members.
<b>Geographical Representation</b>	No statutory requirement.
<b>Consumer Representation</b>	One board member shall represent the public. There is one member of the public serving  <i>Code of Alabama 1975 §25-12-3</i>
<b>Other Representation</b>	No statutory requirement.
<b>Compensation</b>	The board's enabling statutes do not provide for compensation or travel expenses; however, all persons traveling in the service of the state are entitled to travel allowances at the rates provided for state employees.
<b><u>Operations</u></b>	
<b>Administrator</b>	Ralph Pate, Chief Inspector, Board of Boilers and Pressure Vessels Appointed by the Commissioner of Labor Salary FY \$66,175.20 Classified Merit System Position – Salary established in the State Personnel compensation plan The administrator also serves as administrator for the Elevator Safety Board, also housed in the Department of Labor.
<b>Location</b>	Department of Labor 100 North Union Street, Suite 620 Montgomery, AL 36130
<b>Examinations</b>	No examinations are administered in Alabama.  The National Board of Boiler and Pressure Vessel Inspectors (National Board) requires their examination for certification by the National Board. Certification by the National Board is a condition of being awarded a certificate of competency by the Alabama program.  <i>Code of Alabama 1975 §25-12-10(a)</i>

<b>Certificates and Permits</b>	<p><b>Certificate of Competency:</b> Awarded to 110 Special Inspectors</p> <p><b>Certificate of Operation:</b> 4,432 issued 10/01/2006 through 7/16/2007</p> <p><b>New Install Permits:</b> 318 Boiler/Pressure Vessel permits issued 10/01/2006 until 7/16/2007.</p>
<b>Reciprocity</b>	<p>No statutory provision.</p> <p>The department will accept a Certificate of Competency from another state as long as the applicant has been examined and is certified (commissioned) by the National Board.</p>
<b>Continuing Education</b>	<p>No statutory provision.</p> <p>However, the board requires certificate holders to remain certified by the National Board of Boilers and Pressure Vessels. The National Board requires each commissioned (certified) inspector to either attend a National Board seminar or receive other instruction related to inspections at least once every three years.</p>
<b>Employees</b>	<p>3 Full-time 5 Part-time (share duties with the Department of Labor and the Elevator Safety Review Board)</p>
<b>Legal Counsel</b>	Jack Wallace, Office of the Attorney General
<b>Subpoena Power</b>	No provision in the regulatory statutes.
<b>Internet Presence</b>	<p><a href="http://www.alalabor.state.al.us">http://www.alalabor.state.al.us</a> Internet presence is within the Department of Labor website, which provides links:</p> <ul style="list-style-type: none"> <li>• To the boiler and pressure vessel regulatory act</li> <li>• Press releases</li> <li>• State Board of Boilers and Pressure Vessels</li> <li>• Boiler Rules and Regulations</li> <li>• State Statutes</li> <li>• A listing of Board members</li> <li>• Forms</li> </ul>
<b>Attended Board Member Training</b>	<p>Chief Inspector Commissioner's Secretary Division Secretary</p>



<b><u>Financial</u></b>	
<b>Source of Funds</b>	Fees for Certificates of Operation, New Install Permits, and Re-inspections
<b>State Treasury</b>	Yes
<b>Unused Funds</b>	Unexpended balances of fees are retained. (not in accordance with the law) <i>Code of Alabama 1975 §25-12-18</i>

## **SIGNIFICANT ITEMS**

1. **The board's receipts are not deposited into the General Fund, as required by law.** The *Code of Alabama, 1975 Section 25-12-18* states "The owner or user of a boiler or pressure vessel required by this chapter to be inspected by the chief inspector or his or her deputy inspector shall pay directly to the chief inspector, upon completion of inspection, fees as prescribed in rules and regulations promulgated by the commissioner. Pressure vessel certificates of inspection fees shall not exceed ten dollars (\$10) annually. *The chief inspector shall transfer all fees received to the General Fund of the State Treasury. All funds, pursuant to this chapter, deposited in the State Treasury shall be appropriated by the Legislature to the Commissioner of Labor pursuant to Budget Management Act and Article 4 of Chapter 4 of Title 41.*"

The intent of the emphasized language appears to be to preserve for the Department of Labor all deposits of boiler and pressure vessel fees. However, deposit of the fees into the General Fund would thwart this intent.

Deposits into the General Fund are not reserved for any agency or purpose, but become an indistinguishable part of the overall balance in the General Fund. No agency can spend money from the General Fund without a legislative appropriation, which is not a transfer of money to the agency but only an authorization to spend a certain amount from the overall balance in the General Fund. Appropriations to the various agencies from the General Fund are made in annual appropriation acts (budgets) in which the individual appropriations are not based on any specific source of deposits into the General Fund. At the close of a fiscal year, General Fund appropriations lapse, and the authority to spend from the General Fund ceases to exist until a budget for the next fiscal year takes effect.

Consequently the first sentence, which states, "*The chief inspector shall transfer all fees received to the General Fund of the State Treasury.*" is not compatible with the next sentence which states, "*All funds, pursuant to this chapter, deposited in the State Treasury shall be appropriated by the Legislature to the Commissioner of Labor pursuant to Budget Management Act and Article 4 of Chapter 4 of Title 41*"

In order to preserve all deposits of boiler and pressure vessel fees for use by the Department of Labor, the department deposits the fees into a separate fund (576) in the State Treasury, which is used for federal and local receipts and for which the department is allowed to retain year end balances. Should the board have deposited its fees into the General Fund as required by law, the fees would not have been preserved for the use of the Department of Labor.

Unsuccessful legislation to correct this discrepancy was sponsored by Representative Laird in the 2005 (HB739) and 2007 (HB659) legislative sessions.

2. **There is no provision in the law for an administrative penalty such as a warning or citation preliminary to suspension of a certificate of operation or an order to cease operation.** The *Code of Alabama 1975*, Section 25-12-15 (e) and (f) authorizes the commissioner or his/her representative to suspend an inspection certificate after showing cause and to issue a written order to temporarily cease operation of a boiler or pressure vessel if it is determined after inspection to be hazardous or unsafe. The law does not authorize lesser measures such as warnings or citations. The department expressed a desire for such preliminary steps. Legislation to authorize warnings and citations (HB 659) was sponsored by Representative Laird in the 2007 legislative session. The bill did not pass.
3. **Statutes now in effect provide that a violation is a misdemeanor but specifies no misdemeanor classification.** The *Code of Alabama 1975*, Section 25-12-17 states only that, "The operation of a boiler or pressure vessel without the inspection certificate or at a pressure exceeding that specified in the inspection certificate or in violation of this chapter shall constitute a misdemeanor." The department expressed a desire to classify the misdemeanor as "Class A". Legislation to make this amendment was sponsored by Representative Laird in the 2007 legislative session as HB 659. The bill did not pass.
4. **Applicants without certification cannot obtain certification by application to the Alabama Board of Boilers and Pressure Vessels.** The Alabama board requires its applicants to be certified by the National Board of Boiler and Pressure Vessels, which includes passing a National Board examination. The National Board accepts payment only from the states that have a chief inspector, and does not accept payment from individual applicants. Alabama has a chief inspector and has adopted and published administrative rules that describe the process for being examined and becoming certified in Alabama. However, the Alabama Board does not make the National Board examination available, citing the need for an examination fee, which Alabama statutes do not authorize. Persons in Alabama seeking initial certification must apply through other states. In this area, an applicant may take the exam in Georgia, Tennessee, or Mississippi. Legislation authorizing an examination fee was sponsored by Representative Laird in the 2007 legislative session as HB 659. The bill was not successful.

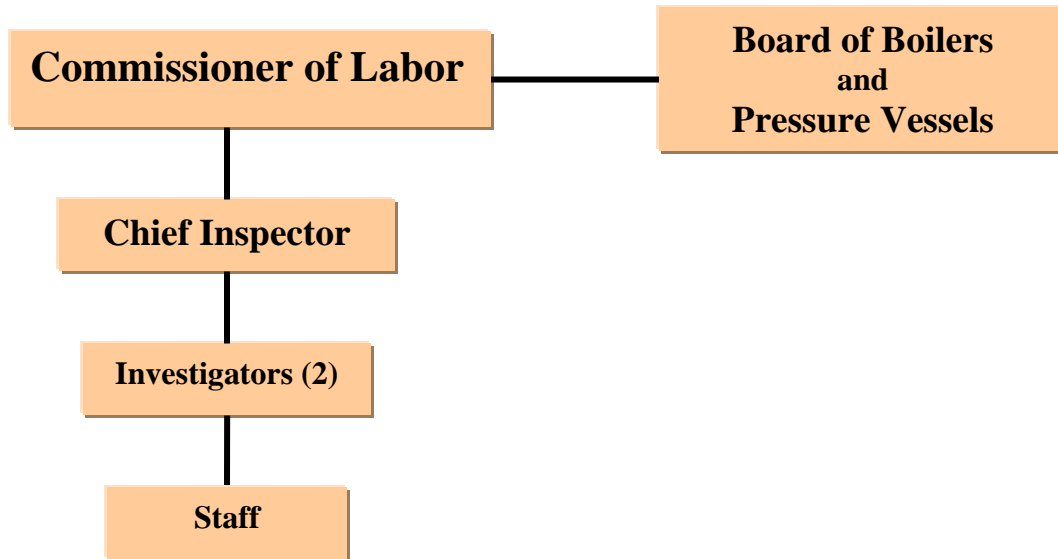
Considering the financial status of the board and the number of potential applicants for initial certification, it is possible that inspection fees will provide sufficient funding to cover the cost of examinations without the need to collect a separate examination fee.

5. **The term “manufacturing process” is not defined in the law or in the board’s administrative rules, a condition that has created controversy as to whether an inspector can inspect some plants.** The *Code of Alabama 1975*, Section 25-12-7 (a) (13) provides an exemption for boilers and pressure vessels operated and maintained as part of a manufacturing process. One of six responding board members and four of the forty-one responding inspectors think it is necessary to define “manufacturing process”. There is controversy as to whether “manufacturing process” refers to the making of a final product from raw materials (the output would be totally different from the input) or if it encompasses, for example, a meat processing plant where the output is not actually “manufactured”. At issue is whether an inspector can inspect a food processing plant’s boilers.
6. **Some members of the board and some inspectors believe the state needs more inspectors.** Two of six responding board members responding to a questionnaire stated that more inspectors are needed. Four of forty-one responding inspectors also indicated a need for more inspectors. The board recently hired a second inspector to complete annual inspections and re-inspections state-wide. So far in fiscal year 2007, over 3,000 certificates of operation were issued. Certificates of operation are necessary to lawfully operate a boiler or pressure vessel.
7. **Legislation submitted in the 2007 legislative session to amend the boiler and pressure vessel regulatory program was not successful.** HB659 of the 2007 regular session, sponsored by Representative Laird; would have made the following amendments:
  - Authorized the chief inspector to issue warnings and citations for violations with a civil penalty of \$500 per citation.
  - Authorized the board to impose fees for inspector examinations and certificates of competency.
  - Provided that the commissioner, the chief inspector, or any deputy inspector with access to boilers and pressure vessels operated in the state. (Section 27-12-14)
  - Clarified the statute by classifying the operation of a boiler or pressure vessel without a certificate of operation as a Class A misdemeanor.

## **STATUS OF PRIOR SIGNIFICANT ITEMS**

Prior significant items have been resolved.

## **ORGANIZATION**



## **PERSONNEL**

The Board of Boilers and Pressure Vessel regulatory program operates within the Department of Labor.

The program employs 3 full-time employees (2 inspectors and clerk)

The program shares 5 part-time employees (Chief Inspector, 2 clerical assistants, and 2 accounting employees) with the Department of Labor and the Elevator Safety Review Board.

Jack Wallace of the Attorney General's Office is the board's legal council.

<b><u>Title</u></b>	<b><u>Number of Employees</u></b>	<b><u>Full or Part-time</u></b>	<b><u>Merit System Status</u></b>	<b><u>Race</u></b>	<b><u>Gender</u></b>
Chief Inspector	1	Part-time	Classified	White	Male
Inspectors	2	Full-time	Classified	White	Male
ASA 1	2	Part-time	Classified	White	Female
Clerk	1	Full-time	Classified	White	Male
Accounting	2	Part-time	Classified	Black	Female

## **PERFORMANCE CHARACTERISTICS**

### **Number of Persons per Inspector in Alabama and surrounding States**

as of July 16, 2007

	Population (Estimate) *	Inspectors	Persons Per Certificate Holder
<b>Alabama</b>	<b>4,599,030</b>	<b>113**</b>	<b>40,699</b>
Florida	18,089,888	Not provided ***	
Georgia	9,363,941	Not provided ***	
Mississippi	2,910,540	Not provided ***	
Tennessee	6,038,803	Not provided ***	

\* July 1, 2006 Census Bureau Population Estimates Report

\*\* 110 special inspectors, 2 deputy inspectors and one chief inspector (the chief does not normally conduct inspections). Alabama issues certificates of competency to qualified special (private) inspectors, all of whom are employed by insurance companies that insure boilers/pressure vessels in Alabama.

\*\*\* Inquiries were not successful

### **Type of Inspections performed and by which State Department**

State	Type of Inspections performed	By Which Department
Alabama	Boilers and pressure vessels; Elevators	Department of Labor
Florida	Boilers and pressure vessels	Fire Marshal's Office
Georgia	Boilers and pressure vessels; Elevators; Moving sidewalks; Man lifts; Dumbwaiters; Wheelchair lifts; Amusement park and Carnival rides	Department of Labor
Mississippi	Boilers and pressure vessels	Department of Health
Tennessee	Boilers and pressure vessels; Elevators	Department of Labor and Workforce Development

### **Comparative Schedule of Inspections by State**

State	Inspections	# State Inspectors	Inspections by State Inspectors
Alabama	4,335 <sup>a</sup>	2	773 <sup>b</sup>
Florida	Not provided		
Georgia	Not provided		
Mississippi	28,373	Not provided	8,512 <sup>c</sup>
Tennessee	36,000+	13	12,959 <sup>d</sup>

**a** – As of June 13, 2007 there were 9,724 active objects (insured boilers/pressure vessels) reported by insurance companies. The board's website states there are an estimated 44,000 boilers and pressure vessels in Alabama

**b** - October 1, 2006 through July 5, 2007

**c** – Fiscal year 2006; approximately 30% of the inspections were completed by state staff

**d** – July 1, 2006 through June 30, 2007

### **Certificates of Operation/Permits Issued by Alabama**

<b>Certificates Issued</b>	<b>Number</b>
Boiler (Type 1) <sup>a</sup>	551
Boiler (Type 2) <sup>b</sup>	2,949
Pressure Vessel (Type 1) <sup>c</sup>	495
Pressure Vessel (Type 2) <sup>d</sup>	437
<b>Total</b>	<b>4432</b>
<b>Installation permits</b>	<b>318</b>

As of July 16, 2007

**a** – power boilers and high pressure, high temperature water boilers are inspected annually

**b** and **c** – low pressure steam and vapor heating boilers are inspected biennially; water heating and hot water supply boilers are inspected biennially

**d** – pressure vessels subject to internal corrosion are inspected every three years

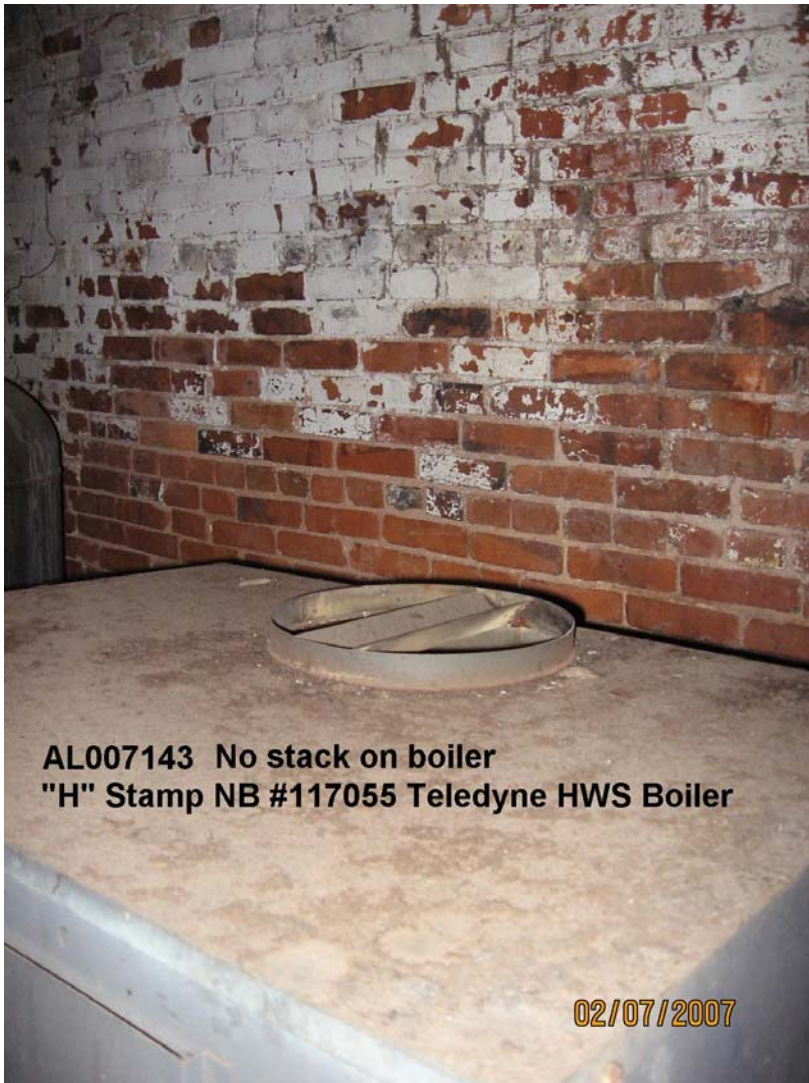
### **Notification to Certificate/Permit Holders of Board decisions to Amend Administrative Rules**

The board complied with notification procedures prescribed in the Administrative Procedure Act, which includes publication of proposed rules in the Administrative Monthly, and public hearings on proposed rules. Certificate or permit holders are not specifically notified of proposed changes.

### **Violations**

When the state inspectors find violations, the owner/installer is notified of the violation and required to submit a letter within a certain time frame to the department upon the correction of the problem. An inspection report is completed by the inspector and returned to the Department of Labor, where the inspection and violation information is entered into the board's database. If a letter of correction is not received within the time specified, departmental staff make calls to the violators periodically to determine if the violations are resolved. During the normal course of inspections (annually, biennially, or otherwise), the inspector determines if corrections of the violations were completed. A Certificate of Operation is not issued until the violations are resolved. As of June 13, 2007, there are 2,945 open violations.

The following images are a sample of the more serious violations from recent inspections by the deputy inspectors:



Exhaust fumes from this boiler are not vented to the outside of the boiler room. Carbon monoxide poisoning can result from improper ventilation.



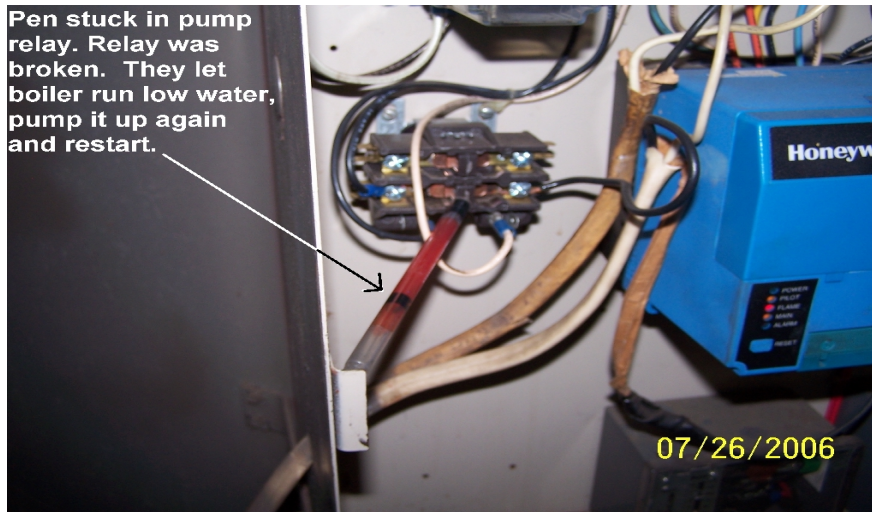


The side of this furnace corroded enough to allow the viewing of the flames at the compromised seams. This is a fire hazard and can also allow carbon monoxide poisoning. A view without the flame present follows:





The seal on this furnace has corroded through allowing carbon monoxide to escape into the room and causing a fire hazard.



The owner stuck a pen in the pump relay, which circumvents the safety circuits.

### **Complaint Handling**

The board has not finalized a complaint handling system. The procedures are currently under development.

### **Complaint Resolution**

To date, the board has not received any complaints.

## **SMART BUDGETING**

*Acts of Alabama*, 2004-50 (HJR89) states, “That all state agencies and entities receiving legislative appropriations are requested to submit to the Joint Legislative Budget Committee budget proposals in performance based budget language and form. This request is applicable for proposals for the 2005-2006 fiscal year to be submitted to the 2005 Regular Session and for each succeeding fiscal year. The Director of Finance is requested to inform each public agency or entity of our desires concerning this matter.”

To comply with this request, the Director of Finance implemented a system of budgeting that requires each agency to report its performance, the system to be named SMART, an acronym for Specific, Measurable, Accountable, Responsive, and Transparent.

As a part of the SMART Budgeting system, each agency is required to submit its goals and objectives to the Department of Finance - the goals to be stated as long-term, multi-year targets which are to be achieved through accomplishment of stated objectives, which are single-year targets. In order to report progress, the goals and objectives must necessarily be designed so that the agency can measure annual progress toward their achievement.

The SMART Budgeting system includes an Operations Plan and a Quarterly Performance Report. The performance report presents information on achievement of an agency's annual objectives, and is the SMART Budgeting report that presents performance

information. If an agency has not included at least one objective for each goal, performance relative to that goal will not be reported. For the 2006 fiscal year, each licensing/regulatory agency was required to have at least one goal and one or more objectives directly related to the goal. Additional annual objectives were allowed without corresponding goals.

Among agencies that were not accustomed to reporting performance, we found confusion as to how to design the goals and objectives and how to differentiate between goals and objectives. Routinely we found goals with no directly related objectives. Both goals and objectives were often too abstract to be measurable, and progress toward their achievement could not be meaningfully reported. The Department of Finance is aware of these deficiencies and is taking remedial steps.

In these respects, the Board of Boilers and Pressure Vessels was no exception. Some goals were not accompanied by directly related objectives. Some goals and objectives were abstract; therefore, progress toward their achievement could not be measured and reported. The board's goals and objectives for the 2006 and 2007 fiscal years are the same.

The board submitted a 2006 Operations Plan and the quarterly data for the SMART Quarterly Performance Report and subsequent reports and information, as required. The board's performance goals and objectives for the 2006 and 2007 fiscal years and the examiner's comments are presented in the following tables.

<b>2006 GOALS</b>	<b>COMMENTS</b>
1. To hire two jurisdictional inspectors	This is a staffing rather than a performance goal. The goal does not address how well an activity is done.
2. To maintain records of all broilers and pressure vessels inspected in the state	The goal is only a statement of normal work to be done and does not have a performance target. There is no directly-related annual objective. Consequently, performance was not reported.
3. To resolve all complaints in a timely manner	The goal is only a statement of normal work to be done and does not have a performance target. There is no directly-related annual objective. Consequently, performance was not reported.

<b>2006 OBJECTIVES</b>	<b>REPORTED</b>	<b>COMMENTS</b>
1. Reduce the time spent entering inspection reports by 2% (2052)	4260	The objective is to reduce time spent entering inspection reports, but does not have a performance indicator of time. The reported data consists of the number of inspection reports keyed in. The objective and reported performance do not show progress in achieving a target level of performance.
2. Obtain feedback from previous inspections through audits and other means to assure quality inspections	55	There is no target level of performance. No indication of what the reported performance means. No information was available to show how reported performance was determined..

<b>2007 GOALS</b>	<b>COMMENTS</b>
1. To hire two jurisdictional inspectors	This is a staffing rather than a performance goal. The goal does not address how well an activity is done
2. To maintain records of all broilers and pressure vessels inspected in the state	The goal is a statement of normal work, not a performance goal. The goal does not address how well an activity is done
3. To resolve all complaints in a timely manner	There is no long-term target level of performance. Timely is undefined.

<b>2007 OBJECTIVES</b>	<b>COMMENTS</b>
4. Reduce the number of complaints to one per 100 inspections reports	More like a long-term goal than an annual objective.
5. Reduce the time spent entering inspection reports by 2% (2052)	Appears appropriate, but the target is not stated in units of time. The target is exactly the same as for 2006. It is not likely that the target represents the same level of reduction in time two years in a row.
6. Increase number of unlicensed contractor activity investigated by 5%	There is no target level stated from which to determine in reported performance will indicate an increase or decrease.

## **FINANCIAL INFORMATION**

### **Schedule of Fees**

Statutory Authority for all Fees *Code of Alabama 1975 §25-12-16*

<b>Administrative Code</b>	<b>Fee</b>	<b>Amount</b>
490-X-2-.02(1)(a)1.	Boilers of 50 sq. ft. of heating surface or less	\$ 60
490-X-2-.02(1)(a)2.	Boilers over 50 sq. ft. and less than 2000 sq. ft.	\$ 90
490-X-2-.02(1)(a)3.	Boilers of 2000 or more sq. ft.	\$120
490-X-2-.02(1)(b)(1)	With manhole	\$ 90
490-X-2-.02(1)(b)(2)	Without manhole	\$ 60
490-X-2-.02(1)(c)1.	Each pressure vessel subject to inspection having a product, as determined above, of 50 sq. ft. or less	\$ 60
490-X-2-.02(1)(c)2.	For each additional 100 sq. ft., or portions thereof, of area in excess of 50 sq. ft.	\$ 10
490-X-2-.02(2)(a)	Installation of all pressure vessels	\$ 50
490-X-2-.02(2)(b)	Installation of all boilers	\$ 50
490-X-2-.02(2)(c)	Installation of all Alabama State Specials*	\$ 75
490-X-2-.02(3)(a)	Certificate of inspection: Power boilers and high pressure, high temperature water boilers	\$ 50 annually
490-X-2-.02(3)(b)	Certificate of inspection: Low pressure steam or vapor heating boilers	\$ 50 biennially
490-X-2-.02(3)(c)	Certificate of inspection : Hot water heating and hot water supply boilers	\$ 50 biennially
490-X-2-.02(3)(d)	Certificate of inspection: Pressure vessels	\$ 10 annually
490-X-2-.02(4)	Failure to meet any of requirements of inspection preparation will result in cancellation of the inspection and will cause the owner, user, agent, or installer to be charged a fee of \$100 per hour, including travel time, for the inspector's time.	\$100 per hour
490-X-2-.02(5)(a)	Re-inspections not performed within 60 calendar day period shall result in a fine of five hundred dollars (\$500) for each boiler or pressure vessel not inspected.	\$500
490-X-2-.02(5)(c)	Interest of 1.5% for fees not paid within 60 days	
490-X-2-.02(6)	Special inspection fee	\$100

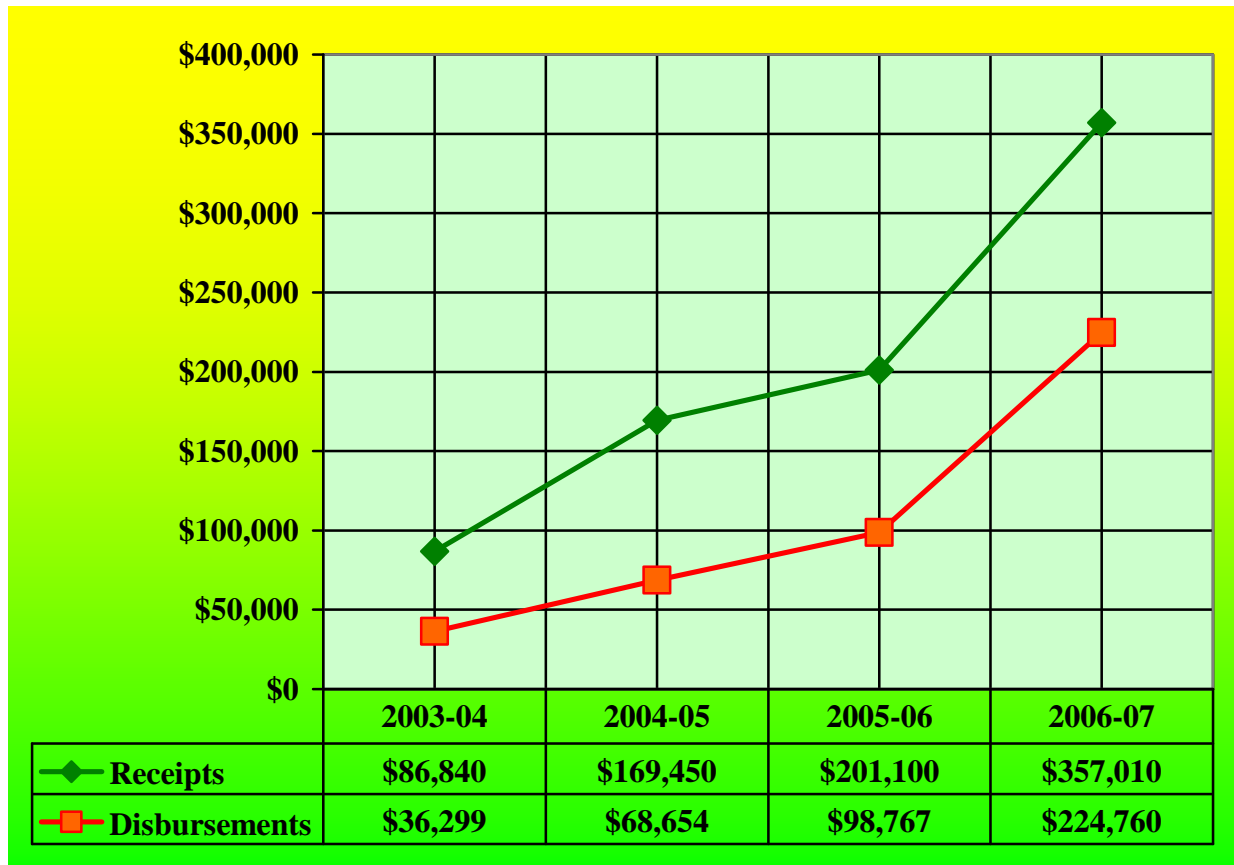
\* Any boiler/pressure vessel that is of special design and cannot be constructed to the AMSE code. (Example: a vessel built in another country)

## **Schedule of Receipts, Disbursements, and Balances**

**Board of Boilers and Pressure Vessels**  
**Fund 0576, Agency 039, Org 2014**

	<u><b>2006/07</b></u>	<u><b>2005/06</b></u>	<u><b>2004/05</b></u>	<u><b>2003/04</b></u>
<b><u>Receipts</u></b>				
Inspection Fees	\$357,010.00	\$201,100.00	\$169,450.00	\$86,840.00
<b><u>Operating Disbursements</u></b>				
Personnel Costs	104,264.10	58,439.21	37,655.10	17,694.00
Employee Benefits	38,578.20	19,249.35	12,462.82	6,309.04
Travel In-State	10,850.58	4,995.67	749.94	394.74
Repairs and Maintenance	2,472.64			99.96
Rentals and Leases	13,080.64	9,445.47	11,992.08	
Utilities and Communications	9,998.47	78.00	1,000.00	828.30
Professional Services	4,180.29	2,315.00	615.00	2,223.94
Supplies, Materials, and Operating Expenses	6,805.69	2,018.70	2,483.86	7,958.61
Transportation Equipment Operations	11,814.31	93.64	638.07	167.75
Transportation Equipment Purchases	18,797.00			
Other Equipment Purchases	3,918.02	2,132.19	1,057.10	623.00
Total Operating Disbursements	224,759.94	98,767.23	68,653.97	36,299.34
Excess (Deficiency) of Receipts over Disbursements	132,250.06	102,332.77	100,796.03	50,540.66
Cash Balance at Beginning of Year	253,669.46	151,336.69	50,540.66	0.00
Cash Balance at End of Year	<u>\$ 385,919.52</u>	<u>\$ 253,669.46</u>	<u>\$ 151,336.69</u>	<u>\$ 50,540.66</u>

**Operating Receipts Vs Operating Disbursements (Chart)**



## **QUESTIONNAIRES**

### **Board Member Questionnaire**

Questionnaires were mailed to all nine board members. Six responded.

1. What are the most significant issues currently facing the **Board of Boilers and Pressure Vessels** and how is the **Board of Boilers and Pressure Vessels** addressing these issues?
  1. "Need to update legislation to provide for civil penalties for non-compliance, the ability to shut down vessels for unsafe operating conditions, charge for examinations and to issue written warnings and citations for violations."
  2. "No issues known."
  3. "Remain technically correct. Keep a board membership on the board."
  4. "1. Continuing work to register all Boilers and Pressure Vessels in the State of Alabama with only a Chief Engineer on staff. 2. Registration of New Boilers with increasing new industry."
  5. "Unsafe Boilers. By increased inspections we can help the owners of these boilers and vessels bring them into compliance."
  6. "PREVENTION OF ACCIDENTAL DEATH AND INJURY TO PEOPLE OF ALABAMA"
2. What changes to the **Board of Boilers and Pressure Vessels'** laws are needed?
  1. "See above"
  2. "Clarification of manufacturing process as stated in current law."
  3. "None."
  4. "Those as presented by the Chief Boiler Inspector/Secretary of Labor."
  5. "We need more teeth to the law to get violators to bring dangerous vessels into compliance. There are no civil or criminal penalties for violators."
  6. "Passage of HB659"
3. Is the **Board of Boilers and Pressure Vessels** adequately funded?

  4   Yes      1   No      1   Unknown           No Opinion

  1. "This is an advisory board and appropriations are made to the Labor Department."
  3. "We expect to remain self-sufficient."
4. Is the **Board of Boilers and Pressure Vessels** adequately staffed?

  1   Yes      3   No      1   Unknown      1   No Opinion

  1. "Need 2 more inspectors."
  5. "We need a few more inspectors."



5. What is the purpose of your fiscal year end balance of unobligated funds?
1. "To continue underwriting of agency activities"
  2. "Unknown."
  3. "I won't know until after our July meeting."
  4. "Hopefully to build a fund to support additional inspectors."
  5. "Since our new board actually makes money, the balance goes back to the Department of Labor to help with underfunded items."
  6. "NO REAL BALANCE AFTER EXPENSES"

**Inspector Questionnaire**

Questionnaires were mailed to 112 inspectors. Forty-one responded.

1. Do you think regulation of your profession by the Board of **Boilers and Pressure Vessels** is necessary to protect public welfare?

35 Yes 4 No 1 Unknown 1 No Opinion

“As an Insurance Inspector, we have always been able to inspect our accounts and insure or suspend insurance accordingly. The State of Alabama has failed in its support and assistance in accounts with safety violations by lack of personal follow-up and a visible enforcement presence. Insured’s merely view this law as an Ad Valorem Tax on their equipment.”

2. Do you think any of the **Board of Boilers and Pressure Vessels’** laws, rules, and policies are an unnecessary restriction on the practice of your profession?

0 Yes 40 No 1 Unknown        No Opinion

“It has made some extra work for me but state politics have been in line with company policy. In other words, you haven’t introduced anything new. There is however an inherent conflict of interest for insurance inspectors. The insureds I enforce state boiler law on, are the same people ultimately responsible for my salary and merit increases. How can I bite the hand that feeds me?”

3. Do you think any of the **Board of Boilers and Pressure Vessels** requirements are irrelevant to the competent practice of your profession?

1 Yes 37 No 2 Unknown 1 No Opinion

“I would perform inspection the same with or without an adopted state law. It makes my job more hazardous to enforce registration and the fees it generates. Most people have not objected to inspection but resent the fact we generate fees for the State of Alabama as a result of a policy.”

4. Are you adequately informed by the **Board of Boilers and Pressure Vessels** of the changes to and interpretations of the **BOARD** positions, policies, rules and laws?

32 Yes 7 No 1 Unknown 1 No Opinion

“Absolutely no communication takes place at all. Most if not all States have quarterly meetings between the Chief Inspector and “Special Inspectors” to address updates, changes in law and special issues.”

“With exception of interpretation of manufacturing vs. non-manufacturing facility”

“Interpretations are hard if not impossible to obtain.”

5. Has the **Board of Boilers and Pressure Vessels** performed your licensing and renewal in a timely manner?

37 Yes                             No                      4 No Opinion

“They have no trouble in collecting licensing fees. The whole program is about money and safety is just a “Trojan Horse” to collect money.”

6. What do you think is the most significant issue(s) currently facing your profession in Alabama and what is the **Board of Boilers and Pressure Vessels** doing to address the issue(s)?

No Response/No Comment    **16**

“Undocumented pressure vessels that have never been inspected or registered with the state. The state has added deputy inspectors.”

“No problems-I don’t get in Alabama that much.

“Public Safety. The Board of Boiler and Pressure Vessels’ Laws, rules and policies are a benefit.”

“At this time I see no issues and I believe the State of Alabama has done a good job of implementing its policies.”

“Awareness of national construction and repair code requirements, such as, ASME and NBIC”

“My most important issue is ON-THE-JOB safety. I have locations I cannot return to for the fear of violence. My work generates fees for the State of Alabama and that has the public very angry. They think they are over taxed already, and the State is just digging deeper into their pockets. Since in effect I represent the state, I become the object of that resentment. Where would the Alabama State Troopers be if they were to enforce traffic laws without a BADGE, ticket book and a Gun or self-protection? I am not allowed to possess any type of device to protect myself including mace to ward off any type of attack. I do my job with a smile and a kind word and with a lot of bluff. You have only succeeded in making me a target to collect your fees. North Carolina gives their inspectors ticket books with the same weight as a traffic ticket in court so at least they have some kind of support and recognition for our jobs. Your boiler and pressure vessel law has no TEETH. If the State of Alabama wants inspection and registration, then it should be done by state inspectors with full authority to carry out their duties and not by civilians.”

“P.S. Most insurance companies like the law because they think it will generate more premium and hopefully profits. The National Board of Boiler and Pressure Vessel Inspectors in Ohio ultimately determine the law because the State of Alabama adopts their rules. There is a type of quasi FEDERALISM to the program when the state Legislature allows an entity outside of Alabama to control the Boiler and Pressure Vessel Laws. The Bottom line is it’s all about money and who gets a cut of it.”

“Getting out info on the requirements of the law for people who are not aware of the law”

“Performing both internal and external inspections to boilers and pressure vessels as required by law. I recommend the board consider increasing the inspection staff to adequately enforce the inspections scheduled.”

“The Alabama Code is too vague. You never know for sure if you should assign an AL number. I feel all Boiler and Pressure Vessels, within certain criteria should be tagged.”

“I have not worked in Alabama.”

“There are too many Exemptions in the Law. Law does not adequately protect workers who operate Boiler and Pressure Vessel.”

“Safe operation of Boilers and Pressure Vessels”

“Alabama Boiler law is not strict enough. A 50 gallon water heater with a faulty safety valve can rupture faster than a High Pressure Boiler. The High Pressure Boiler is inspected and well maintained by the owner.”

“At present I have not worked in Alabama, so I have no opinion at this time.”

“The Board needs to better define “Manufacturing” to help clarify when Boilers in these Facilities require inspections. Currently the Board has done nothing to address this issue.”

“PROTECTING THE PUBLIC”

“Currently no issues”

“The state needs to hire more State Inspectors and to ensure that the insurance companies are doing what they are supposed to do on their inspections. Get feedback from locations that have boilers.”

“Providing assistance in getting vessels registered.”

“Lack of new personnel”

“I think there are two issues that faces us.

The first one is to have the exemption removed from manufacturing locations. I do not think it was the intent of the law to exempt these locations. More accidents happen in the work place than any where else. This also makes it very difficult when determining which inspections are to be inspected and which locations are not required to be inspected. XXXXXX performs internal inspections on all Section 1 Power Boilers, exempt or not exempt.

Another issue that we are all being faced with in the near future. This is the lack of experienced boiler inspectors. I think this problem exist all across the country. We at XXXXXX are fortune at the present time to have good, competent inspectors. We have to continuously keep looking for people in order to our positions filled with the right people.

I am not sure what the State of Alabama is doing about the two issues above. I feel like they are addressing the first issue. I wish there was some type of apprentice program for new, bright people. The Navy does not have steam boilers now, we have to come up with a new source to get good, qualified people or we have to train them ourselves.”

“Need written definition of ‘Manufacturing Process.’”

“Maintenance and Operator training.”

“Getting the word out to all boiler operators of the intent of the law and the requirements of NFPA-86 and CSD-1”

“None. I am an Insurance Company Inspector.”

7. Do you think the **Board of Boilers and Pressure Vessels** and their staff are satisfactorily performing their duties?

33 Yes      1 No      5 Unknown      2 No Opinion

“They collect the money but don’t get certificates of operation to the accounts. They have no field presence and most of my accounts consider the department a paper tiger.”

“As far as the Legislature will let them in making the rules and regulations”

“Except for # 4 and # 6 above”

8. Has any member of the **Board of Boilers and Pressure Vessels** or its staff asked for money (other than normal fees), services, or any other thing of value in return for performing the **Board’s** service for you?

       Yes      41 No

“Where the water heater is put in a closet and forgotten about. The safety valve most often becomes plugged with minerals and will not release when needed. There are more exposure to water heaters than Boilers.”

**Owner/User Questionnaire**

Questionnaires were sent to one hundred owner/users. Forty-three responded.

**1. Do you believe that state regulation of the boilers/pressure vessels is necessary for the protection of the public welfare?**

36 Yes    5 No            2 No Opinion

“Employee safety of greater concern”

“No, I think the state began to regulate boilers as a way to generate revenue.”

“Yes, but not on every heater we have. I think it should be on a true boiler not a 100 gallon water heater.”

**2. Do you think any of the board’s laws, rules, and policies are an unnecessary restriction on the ability to operate a boiler and/or pressure vessel?**

8 Yes    23 No            7 Unknown            5 No Opinion

“I have not seen the laws or rules”

“Depends on inspector”

“If everyone is treated equal”

**3. Are you adequately informed by the board of changes to and interpretations of board positions, policies, rules and laws?**

5 Yes    28 No            6 Unknown    4 No Opinion

“I was advised of the changes once the inspector came to the facility.”

“I have never been informed of any changes or new interpretations of board positions, policies, rules and laws.”

**4. Was your inspector**

3 Knowledgeable            3 Professional            33 Both            4 No Response

“Some what”

**5. Was your inspection performed in a timely manner?**

37 Yes    2 No            2 Unknown    2 No Opinion

**6. What do you think is the most significant issue facing the safety/operation of boilers/pressure vessels today?**

No Response      **10**

“Operator knowledge”

“Whether owner/operators are sufficiently knowledgeable about boiler safety and perform maintenance as needed to operate a safe boiler.”

“Funding to repair and /or replace equipment, and not enough information about item # 3 above.”

“Owners and users knowledge about what a pressure vessel can handle in a safe manner.”

“gaskets, ---glass/valves”

“Inspections by the professional”

“No Issues.”

“Training for boiler operators”

“Properly trained installers/operators/mechanics and skilled craft workers.”

“Preventive maintenance and annual inspections should be mandatory.”

“Need to condemn older boilers that over 20 years old (mine is at this hotel).”

“Lack of technicians certified in boiler PM’s, startups, and safety.”

“I think safety first and appreciate good inspectors to make sure the vessels are not going to fail.”

“People by-passing safety”

“Pressure relief valves and safety”

“Proper installation and knowledge of the laws and rules pertaining to the operations of the boilers”

“In my 30 + years in the Dry cleaning business I have never heard of a boiler problem.”



“I think it is great idea the Boiler Inspector comes annually to make sure that our boiler are safe for our facility and community.”

“Pressure gauges”

“Knowledge of the dangers for owners”

“Correct installation. Regular service of equipment.”

“Controls”

“Knowledge of the operation and safety issues of the equipment”

“Age of equipment”

“Owner/user lack of knowledge in regards to severity of jeopardized safety when pressure relief valves are not properly inspected/tested, or exchanged with new ones on regular scheduled inspections.”

“Improper insulation by vendors”

“Operators and maintenance”

“ADEQUATE ATTENTION TO SAFETY ISSUES”

“Repair work done without the use of proper materials”

“Money, this is costing a lot of extra money for our school system. We have never had an injury of any type that was caused by a boiler or water heater. We now have to permit, take time to inspect with your person. A water heater cost more if certified.”

“Making changes to safety components without engineers knowledge. Replacing components with lower P/T ratings, which affects BPV safety.”

“I think it is good. Life is something you can not replace. Making people to understand the importance.”

“annual inspections”

**7. What is the Board doing to address the issue?**

No Response      **28**

“Inspection”

"I'm new to the dry cleaning business and recently replaced my gas boiler with an electric boiler. An operator is largely at the mercy of their repairman. The Board might consider preparing a document to summarize pertinent legislative actions impacting boiler safety."

"A lot"

"Enforcing regulations"

"Unknown if the rules/laws are available"

"Inspections"

"Regular service and inspection"

"Performing operational inspection"

"I think the board is doing a great job addressing these issues."

"To my knowledge, I'm not sure exactly what the Board is doing or planning to address this issue. I do know that the inspectors seem to have more Board regulation information than most owners. In regards to the pressure relief valves and for example of my Facilities' inspection, at times I may not have actually exchanged the safety relief valves prior to the arrival of the inspector due to late delivery from my supply vendor. The inspector will instruct me to do so and then in about a week I will receive by mail a jurisdictional citation warning letter. I have always done the proper thing and exchanged the valves when delivered to the Facility and informed the inspector by mail/E-mail that the task had been completed. My point is, it is so easy for some owner/users to not be completely honest that they have exchanged the valves in this type of situation because there is not any check/balance in place other than the word of the Facility manager. The inspector never returns to the Facility to verify that the task was actually completed."

"Notifying owner of insufficient problems that need to be corrected to prevent accidents"

"Having Inspection on Boilers"

"INSPECTING AND DISCUSSING THEIR FINDINGS WITH PROPERTY OWNERS/MANAGERS."

"unknown"

"Checking permits and following up on annual inspections."

**8. Please make additional comments you may have regarding the regulation of boilers/pressure vessels.**

No Response      **23**

“Please send us boiler users and owners a manual of the Board’s positions, policies, rules, and laws? Please condense this information into a manual that can be read and interpreted by everyone without having a lawyer’s assistance.

**Personal Note** – I think the boiler certification program is great and it aids facility professionals in getting funds to properly maintain equipment to insure safety and proper operation. I come from heavy industry and during my experience have seen first hand what can happen if boilers are not maintained properly. The boiler inspectors are very helpful and aids us in making sure we are operating and maintaining the equipment to the latest standard. We have insurance with Risk Management (State of Alabama) and the yearly classes on boilers are a great aid in keeping our operators and maintenance personnel informed, trained, and qualified to safely operate and maintain the boilers.

Please continue to educate and assist us in putting the safety of our kids first.”

“We ceased operation of our boilers and removed them from our facility.”

“Need plenty of venting and fresh air coming to the room and boiler room.”

“The Board will inspect and you pay your fees, however most times the certificates are many months **PAST DUE** Before you can receive them. After many phone calls to Board, this keeps happening on a regular basis.”

“I would like a copy of the regulations.”

“If it works leave it alone, done making unnecessary repairs.”

“Complete waste of time and money”

“The state should have some boiler safety training classes as part of the required CEU-need every two years.”

“Budget for replacement/repairs is not adequate.”

“If the fee for inspection can be reduced it would greatly help us being small business owners.”

“I’ve had two inspectors, one from the state and one from our insurance. Both were knowledgeable and helpful. They understood business as well. Keep good inspectors and this program will continue to be a good program!”

“State and local codes, should be in accordance. Local codes that guide installation should include any and all state requirements that might later be imposed on the owner.”

“All of our boiler work is contracted out to ADCO—we really have little knowledge on this subject.”

“Slow response from state on getting Certifications back to owners.”

“Slow return of Certificate to owner.”

“Person operating Boilers need to have schooling once a year.”

“FEE WAIVERS FOR STATE AGENCIES WOULD APPEAR APPROPRIATE ON A MUTUAL BASIS. ALSO THEY SHOULD DEAL WITH THE CONTRACTOR IN SITUATIONS WHERE BOILER WORK AND BOILERS ARE UNDER THE CONTROL OF A CONTRACTOR.”

“State regulation is not needed. Our boilers were less than two years old when the safety code went into effect. Our building had already passed the City Building Inspector’s approval. Our insurance company, XX XXXXXX, completes an annual inspection of our buildings. The inspector I called to do our boiler inspector for the state certification is a XX XXXXXX employee.”

“Additional regulations for contractors who regularly fail to comply with BPV act. Penalties should be assessed for failure to comply with requirements.”

“Need more schooling in the regulation of boilers, maintenance, operation, and testing of same.”

# APPENDICES

## Smart Budget Reports

State of Alabama  
EBO Form No. 4b

ALABAMA DEPARTMENT OF LABOR  
FY 2005-2006 SMART OPERATIONS PLAN

Agency No: 039 Page 1 of 1

Activity 3	Boiler and Pressure Vessel Board (8101)	ACTUAL	BUDGET	BUDGET
		FY04	FY05	FY06
		<b>\$ 535,000</b>	<b>\$ 500,000</b>	<b>\$ 500,000</b>
	<b>Actual and Projected</b>	87,840	175,680	195,200
<b>MISSION</b>	The department, with advice from the board, formulates definitions, rules & regulations for boilers/pressure vessels inspections			
<b>GOAL(S)</b>	To hire 2 jurisdictional inspectors To maintain records of all boilers & pressure vessels inspected in the state To resolve all complaints in a timely manner			
<b>WORKLOAD</b>	Number of objects to increase by 10%	\$ 1,756	\$ 3,512	\$ 3,863
<b>CRITICAL ISSUES</b>				
Internal	Under staffed, careful accounting of all public transactions such as fees, operating permits, violation tracking, ect.			
External	Provide for collection of examination fees, definitions, statutory changes & monitor invoices for prompt payments.			
<b>OBJECTIVES</b>	Establish training seminars, for boilers and pressure vessel installers, users, with help from professional training organizations.			
Spending	This program is self supporting utilizing in an efficient manner all monies generate by the program, for operating costs	\$ 87,840	\$ 175,680	\$.. 195,200
Staffing	Currently one position is filled, need to increase staffing	1	2	. 3
Efficiency	Reduce the time spent entering inspection reports by 2% (2052)	...	2%	2%
Quality	Obtain feedback from previous inspections through audits, and other means to assure quality inspections.			
Strategies	Reduce violations through education and inspections. Effective scheduling to better to serve the state and customer.			

## 4<sup>th</sup> Quarter Performance Report

<b>Smart Quarterly Performance Report</b>											
<b>Fiscal Year: 2006</b>											
<b>Agency: 039 Labor, Department</b>											
<b>Org:</b>											
<b>Program: 021 Regulatory Services</b>											
<b>Activity: 8101</b>											
<b>Performance Measures</b>		<b>First Quarter</b>		<b>Second Quarter</b>		<b>Third Quarter</b>		<b>Fourth Quarter</b>		<b>Annual</b>	
<b>Workload/Cost Factor</b>	<b>Performance Indicator</b>	<b>Projected</b>	<b>Actual</b>	<b>Projected</b>	<b>Actual</b>	<b>Projected</b>	<b>Actual</b>	<b>Projected</b>	<b>Actual</b>	<b>Projected</b>	<b>Actual</b>
WC1: Number of objects to increase by 10%	%	250	971	250	955	250	1,225	250	1,109	0	4,260
<b>Spending</b>	<b>Performance Indicator</b>	<b>Projected</b>	<b>Actual</b>	<b>Projected</b>	<b>Actual</b>	<b>Projected</b>	<b>Actual</b>	<b>Projected</b>	<b>Actual</b>	<b>Projected</b>	<b>Actual</b>
SP1: This program is self-supporting utilizing in an efficient manner all monies generated by the program for operating cost.	\$	17,000	18,100	17,000	54,380	17,000	36,780	17,000	92,330	0	201,590
<b>Staffing</b>	<b>Performance Indicator</b>	<b>Projected</b>	<b>Actual</b>	<b>Projected</b>	<b>Actual</b>	<b>Projected</b>	<b>Actual</b>	<b>Projected</b>	<b>Actual</b>	<b>Projected</b>	<b>Actual</b>
ST1: Currently one position is filled, need to increase staffing	FTE	1.5	2	1.5	2	1.5	3	1.5	2.5	0	9.5
<b>Efficiency</b>	<b>Performance Indicator</b>	<b>Projected</b>	<b>Actual</b>	<b>Projected</b>	<b>Actual</b>	<b>Projected</b>	<b>Actual</b>	<b>Projected</b>	<b>Actual</b>	<b>Projected</b>	<b>Actual</b>
EF1: Reduce the time spent entering inspection reports by 2% (2052)	%	502	971	502	955	502	1,225	502	1,109	0	4,260
<b>Quality</b>	<b>Performance Indicator</b>	<b>Projected</b>	<b>Actual</b>	<b>Projected</b>	<b>Actual</b>	<b>Projected</b>	<b>Actual</b>	<b>Projected</b>	<b>Actual</b>	<b>Projected</b>	<b>Actual</b>
QU1: Obtain feedback from previous inspections through audits, and other means to assure quality inspections	#	50	25	50	10	50	10	50	10	0	55

How have policy decisions and budget determinations made by the governor and the legislature in the fiscal year 2005-06 affected your agency in meeting its desired accomplishments and services?

Through the concerted efforts of the Governor and the Legislature, the Board, with the enactment of new Legislation, was able to raise the level of professionalism and expertise of the contractors by requiring education credits as a prerequisite for licensure renewal. This legislation also allows the agency the opportunity to enhance the Board's established consumer protection program.

What administrative improvements did your agency make in fiscal year 2005-06 and what potential improvements do you foresee for future years? Include suggested changes in legislation or administrative procedures which would aid your agency in these improvements.

The Board has developed new rules and regulations which have been approved by the Legislative Reference Service. These changes allow the Board the ability to carry out the mandated statutory requirements. These new statutory obligations require the Board to increase staff to competently carry out the Board's purpose.

<b>Agency/ Org</b>	039 – Labor, Department
<b>Organization</b>	-
<b>Program</b>	021- REGULATORY SERVICES
<b>Activity</b>	8101 – BOILERS AND PRESSURE VESSELS BD

<b>Mission</b>	The department with advice from the board, formulates definitions, rules and regulations for boilers/pressure vessel inspections
<b>Vision</b>	Making sure that the citizens of Alabama are assisted courteously and protected from an unsafe working environment.
<b>Values</b>	Handle complaints and services involving related activities including wage claims , labor-management relations, minors and unsafe elevators/boilers.
<b>Goals</b>	<p>G1: To hire two hire jurisdictional inspectors (GP-7)</p> <p>G2: To maintain records of all boilers and pressure vessels inspected in the state (GP-7)</p> <p>G3: To resolve all complaints in a timely manner (GP-7)</p>

### Critical Issues

**Internal** IC11: Under staffed, careful accounting of all public transactions such as fees, operating permits, violation tracking, etc. 0

**External** EC11: Provide for collection of examination fees, definitions, statutory changes & monitor invoices for prompt payments. 0

### Strategies

- 1). Reduce violations through education and inspections 0
- 2). Effective scheduling to better serve the state and customer 0

Workloads								Performance Indicator
Number of inspections to increase by 10%								0
<b>FY 07 Projected:</b> 3,863 <b>FY 07 Target:</b> 0								
<b>FY07 Quarterly Projections:</b>	<b>1 st Qtr:</b>		<b>2nd Qtr:</b>		<b>3 rd Qtr:</b>		<b>4 th Qtr:</b>	
Number of technical exams will remain unchanged								number
<b>FY 07 Projected:</b> 469 <b>FY 07 Target:</b> 375								
<b>FY07 Quarterly Projections:</b>	<b>1 st Qtr:</b>	107	<b>2nd Qtr:</b>	95	<b>3 rd Qtr:</b>	114	<b>4 th Qtr:</b>	59

**Objectives**  
**Spending**

This program is self-supporting utilizing in an efficient manner all monies generated by the program, for operating costs.

**Performance Indicator**

\$

FY 07 Projected: 500,000									FY 07 Target: 0		
FY07 Quarterly Projections:	1 st Qtr:		2nd Qtr:		3 rd Qtr:		4 th Qtr:				
Staffing	Currently one position is filled, need to increase staffing.						0				
FY 07 Projected: 3									FY 07 Target: 0		
FY07 Quarterly Projections:	1 st Qtr:		2nd Qtr:		3 rd Qtr:		4 th Qtr:				
Efficiency	Reduce the number of complaints to one per 100 inspections reports.						0				
FY 07 Projected: 38.63									FY 07 Target: 0		
FY07 Quarterly Projections:	1 st Qtr:		2nd Qtr:		3 rd Qtr:		4 th Qtr:				
Quality	Reduce the time spent entering inspection reports by 2% (2052)						0				
FY 07 Projected: 0.75									FY 07 Target: 93		
FY07 Quarterly Projections:	1 st Qtr:	16	2nd Qtr:	37	3 rd Qtr:	20	4 th Qtr:	20			
	Increase number of unlicensed contractor activity investigated by 5%						number investigated				
FY 07 Projected: 51									FY 07 Target: 0		
FY07 Quarterly Projections:	1 st Qtr:		2nd Qtr:		3 rd Qtr:		4 th Qtr:				

Source of Funds			
<b>Fund Code</b>	<b>Fund Name</b>	<b>Requested FY 07</b>	<b>Budgeted FY 07</b>
0576	Boiler and Pressure Vessel Board	\$0	\$500,000
<b>Total of all Funds Listed Above:</b>		<b>\$989,450</b>	<b>\$1,009,173</b>



## **Statutes**

### **CHAPTER 12. THE BOILER AND PRESSURE VESSEL SAFETY ACT.**

#### **§ 25-12-1. Short title.**

This chapter shall be known and may be cited as the "Boiler and Pressure Vessel Safety Act" and, except as otherwise provided in this chapter, shall apply to all boilers and pressure vessels.  
(Act 2000-315, p. 488, § 1.)

#### **§ 25-12-2. Definitions.**

As used in this chapter, the following terms shall have the following meanings:

- (1) Board. The Board of Boilers and Pressure Vessels.
- (2) Boiler. A closed vessel in which water or other liquid is heated, steam or vapor is generated, or steam is superheated, or in which any combination of these functions is accomplished, under pressure or vacuum, for use externally to itself, by the direct application of energy from the combustion of fuels or from electrical, solar, or nuclear energy. The term "boiler" shall include fired units for heating or vaporizing liquids other than water where these units are separate from processing systems and are complete within themselves. The term "boiler" is further defined to include any of the following terms:
  - a. Heating boiler. A steam or vapor boiler operating at pressures not exceeding 15 psig or a hot water boiler operating at pressures not exceeding 160 psig or temperatures not exceeding 250 degrees Fahrenheit.
  - b. High pressure, high temperature water boiler. A water boiler operating at pressures exceeding 160 psig or temperatures exceeding 250 degrees Fahrenheit.
  - c. Power boiler. A boiler in which steam or other vapor is generated at a pressure of more than 15 psig.
- (3) Certificate of inspection. An inspection, the report of which is used by the chief inspector to determine whether or not a certificate as provided by subsection (c) of Section 25-12-15 may be issued.
- (4) Commissioner. The Commissioner of Labor.
- (5) Department. The Department of Labor.
- (6) Pressure vessel. A vessel other than those vessels defined in subdivision (2) in which the pressure is obtained from an external source or by the application of heat.

(Act 2000-315, p. 488, § 2.)

#### **§ 25-12-3. Board of Boilers and Pressure Vessels.**

There is created within the Department of Labor a Board of Boilers and Pressure Vessels, which shall be referred to in this chapter as the board. The board shall consist of nine members, the majority of whom shall have experience in design, construction, inspection, repair, or operation of boilers or pressure vessels. Eight of these members shall be appointed by the Commissioner of Labor, two for a term of one year, two for a term of two years, two for a term of three years, and two for a term of four years. At the expiration of their respective terms of office, they or their successors identifiable with the same interest respectively as provided in this chapter shall be appointed for terms of four years each. The commissioner may at any time remove any member of the board for inefficiency or neglect of duty in office. Upon the death or incapacity of any member, the commissioner shall fill the vacancy for the remainder of the unexpired term with a representative of the same interests with which his or her predecessor was identified. Of these eight appointed members, the majority of whom shall be registered professional engineers when available, one shall be a representative of owners and users of power boilers having experience with the boilers; one shall be a representative of owners and users of heating boilers; one shall be a representative of owners and users of pressure vessels having experience with the vessels; one shall be a representative of boiler or pressure vessel manufacturers; one shall be a representative of the crafts involved in the construction, repair, or operation of boilers or pressure vessels; one shall be a representative of the heating contractors; one shall be a representative of a company licensed to insure and insuring in this state boilers and pressure vessels; and one shall represent the public, for example, a mechanical engineer on the faculty of a recognized engineering college within the state or a licensed professional engineer. The ninth member of the board shall be the commissioner or his or her designee.

(Act 2000-315, p. 488, § 3.)

**§ 25-12-4. Rules and regulations.**

(a)(1) The department, with the advice of the board, shall formulate definitions, rules, and regulations for the safe construction, installation, inspection, maintenance, and repair of boilers and pressure vessels in this state.

(2) The definitions, rules, and regulations formulated for new construction shall be based upon and at all times follow the generally accepted nationwide engineering standards, formulas, and practices established and pertaining to boiler and pressure vessel construction and safety. The department, with the advice of the board, may adopt an existing published codification, known as the Boiler and Pressure Vessel Code of the American Society of Mechanical Engineers, with the amendments and interpretations made and approved by the council of the society, and may adopt the amendments and interpretations subsequently made and published by the same authority. When adopted, the codification shall be deemed to be incorporated into and shall constitute a part of the definitions, rules, and regulations of the department. Amendments and interpretations to the code shall be effective immediately upon being promulgated, to the end that the definitions, rules, and regulations shall at all times follow the generally accepted nationwide engineering standards.

(3) The department, with the advice of the board, shall formulate the rules and regulations for the inspection, maintenance, and repair of boilers and pressure vessels which were in use in this state prior to the date upon which the first rules and regulations under this chapter pertaining to existing installations become effective or during the 12-month period immediately thereafter. The rules and regulations shall be based upon and at all times follow generally accepted nationwide engineering standards and practices and may adopt the applicable sections of the Inspection Code of the National Board of Boiler and Pressure Vessel Inspectors or API 510 of the American Petroleum Institute.

(b) The rules and regulations and any subsequent amendments formulated by the department shall be adopted pursuant to the Alabama Administrative Procedure Act, except the board shall allow a hearing by interested parties prior to adoption. The rules when promulgated shall have the force and effect of law, except that the rules applying to the construction of new boilers and pressure vessels shall not become mandatory until 12 months after their promulgation by the department. Notice of the hearing shall give the time, the place, and state the matters to be considered at the hearing.

(c) Subsequent amendments to the rules and regulations adopted by the department shall be permissive immediately and shall become mandatory 12 months after their promulgation.  
(Act 2000-315, p. 488, § 4.)

**§ 25-12-5. Installation and operation to conform with rules and regulations.**

No boiler or pressure vessel which does not conform to the rules and regulations of the department governing new construction and installation shall be installed and operated in this state after 12 months from the date upon which the first rules and regulations under this chapter pertaining to new construction and installation shall have become effective, unless the boiler or pressure vessel is of special design or construction and is not inconsistent with the spirit and safety objectives of the rules and regulations, in that event, a special installation and operating permit may be granted by the department.

(Act 2000-315, p. 488, § 5.)

**§ 25-12-6. Maximum allowable working pressure.**

(a) The maximum allowable working pressure of a boiler carrying the ASME Code symbol or of a pressure vessel carrying the ASME or API-ASME symbol shall be determined by the applicable sections of the code under which it was constructed and stamped. Subject to the concurrence of the enforcement authority at the point of installation, the boiler or pressure vessel may be rerated in accordance with the rules of a later edition of the ASME Code and in accordance with the rules of the National Board Inspection Code or API 510, as applicable.

(b) The maximum allowable working pressure of a boiler or pressure vessel which does not carry the ASME or the API-ASME Code symbol shall be computed in accordance with the Inspection Code of the National Board of Boiler and Pressure Vessel Inspectors.

(c) This chapter shall not be construed to prevent the use, the sale, or the reinstallation of a boiler or pressure vessel referred to in this section, provided it has been made to conform to the rules and regulations of the board governing existing installations and has not been found upon inspection to be in an unsafe condition.

(Act 2000-315, p. 488, § 6.)

**§ 25-12-7. Exceptions.**

- (a) This chapter shall not apply to the following boilers and pressure vessels:
- (1) Boilers and pressure vessels under federal control or under regulations of Title 49 of the Code of Federal Regulations, Parts 192 and 193.
  - (2) Pressure vessels used for transportation and storage of compressed or liquefied gases when constructed in compliance with specifications of the United States Department of Transportation and when charged with gas or liquid, marked, maintained, and periodically requalified for use, as required by appropriate regulations of the United States Department of Transportation.
  - (3) Pressure vessels located on vehicles operating under the rules of other state or federal authorities and used for carrying passengers or freight.
  - (4) Air tanks installed on the right of way of railroads and used directly in the operation of trains.
  - (5) Pressure vessels that do not exceed any of the following weights and measures:
    - a. Five cubic feet in volume and 250 psig pressure.
    - b. One and one-half cubic feet in volume and 600 psig pressure.
    - c. An inside diameter of six inches with no limitation on pressure.
  - (6) Pressure vessels having an internal or external working pressure not exceeding 15 psig with no limit on size.
  - (7) Pressure vessels with a nominal water containing capacity of 120 gallons or less for containing water under pressure, including those containing air, the compression of which serves only as a cushion.
  - (8) Pressure vessels containing water heated by steam or any other indirect means when none of the following limitations are exceeded:
    - a. A heat input of 200,000 BTU per hour.
    - b. A water temperature of 210 degrees Fahrenheit.
    - c. A nominal water containing capacity of 120 gallons.
  - (9) Hot water supply boilers, equipped with ASME-National Board approved safety relief valves, which are directly fired with oil, gas, or electricity when none of the following limitations are exceeded:
    - a. Heat input of 200,000 BTU per hour.
    - b. Water temperature of 210 degrees Fahrenheit.
    - c. Nominal water containing capacity of 120 gallons.
  - (10) Pressure vessels in the care, custody, and control of research facilities and used solely for research purposes which require one or more details of noncode construction or which involve destruction or reduced life expectancy of those vessels.
  - (11) Pressure vessels or other structures or components that are not considered to be within the scope of ASME Code, Section VIII.
  - (12) Boilers and pressure vessels operated and maintained for the production and generation of electricity. A person, firm, partnership, or corporation operating such a boiler or pressure vessel shall have insurance or shall be self-insured. The boiler or pressure vessel shall be regularly inspected in accordance with the minimum requirements for safety as defined in the ASME Code by an inspector who has been issued a certificate of competency by the commissioner in accordance with Section 25-12-10.
  - (13) Boilers and pressure vessels operated and maintained as a part of a manufacturing process. A person, firm, partnership, or corporation operating such a boiler or pressure vessel shall have insurance or shall be self-insured.
  - (14) Boiler or pressure vessels that are subject to OSHA standards of compliance.
  - (15) Boilers and pressure vessels operated and maintained by a public utility, including, but not limited to, boilers and pressure vessels operated and maintained for the production of electricity.
  - (16) Autoclaves used only for the sterilization of reusable medical or dental implements in the place of business of any professional licensed by the laws of this state.
- (b) The following boilers and pressure vessels shall be exempt from the requirements of subsections (b), (c), and (d) of Section 25-12-14 and Sections 25-12-15 and 25-12-16:
- (1) Boilers or pressure vessels located on farms and used solely for agricultural or horticultural purposes.
  - (2) Heating boilers or pressure vessels which are located in private residences or in apartment

houses of less than six family units.

(3) Any pressure vessel used as an external part of an electrical circuit breaker or transformer.

(4) Pressure vessels on remote oil or gas-producing lease locations that have fewer than 10 buildings intended for human occupancy per 0.25 square mile and where the closest building is at least 220 yards from any vessel.

(5) Pressure vessels used for storage of liquid propane gas under the jurisdiction of the state fire marshal, except for pressure vessels used for storage of liquefied petroleum gas, 2,000 gallons or above, which have been modified or altered.

(6) Air storage tanks not exceeding 16 cubic feet, 120 gallons, in size and under 250 psig pressure.

(7) This chapter exempts and shall not regulate any and all pressure vessels associated in any way with oil, natural gas, and related by-products, feedstock, and product manufacturing operations; including exploration, production, gas processing, treating refining chemical, pipeline, supply, storage, and transportation. This subdivision shall not apply to buildings or businesses, or both, subject to public utilization.

(Act 2000-315, p. 488, § 7.)

**§ 25-12-8. Chief inspector.**

(a) The commissioner may appoint as chief inspector a citizen of this state who at the time of the appointment shall have not less than five years' experience in the construction, installation, inspection, operation, maintenance, or repair of high pressure boilers and pressure vessels as a mechanical engineer, steam operating engineer, boilermaker, or boiler inspector and who shall pass the same type of examination prescribed under Section 25-12-11. The chief inspector may be removed for cause after due investigation by the board and its recommendation to the commissioner.

(b) The chief inspector, if authorized by the commissioner, shall be charged, directed, and empowered to do all of the following:

(1) To take action necessary for the enforcement of the laws of the state governing the use of boilers and pressure vessels to which this chapter applies and of the rules and regulations of the department.

(2) To keep a complete record of the name of each owner or user and his or her location and, except for pressure vessels covered by an owner or user inspection service, the type, dimensions, maximum allowable working pressure, age, and the last recorded inspection of all boilers and pressure vessels to which the chapter applies.

(3) To publish and make available to anyone requesting them copies of the rules and regulations promulgated by the department.

(4) To issue or to suspend or revoke for cause inspection certificates as provided for in Section 25-12-15.

(5) To cause the prosecution of all violators of this chapter.

(Act 2000-315, p. 488, § 8.)

**§ 25-12-9. Deputy inspectors.**

The commissioner may employ deputy inspectors who shall be responsible to the chief inspector. A deputy inspector at the time of appointment shall have three years of experience in the construction, installation, inspection, operation, maintenance, or repair of high pressure boilers and pressure vessels as a mechanical engineer, steam operating engineer, boilermaker, or boiler inspector. A deputy inspector shall pass the examination provided for in Section 25-12-11.

(Act 2000-315, p. 488, § 9.)

**§ 25-12-10. Special inspectors.**

(a) In addition to the deputy inspectors authorized by Section 25-12-9, the commissioner, upon the request of any company licensed to insure and insuring in this state boilers and pressure vessels, or upon the request of any company operating pressure vessels in this state for which the owner or user maintains a regularly established inspection service which is under the supervision of one or more technically competent individuals whose qualifications are satisfactory to the department and causes the pressure vessels to be regularly inspected and rated by the inspection service in accordance with applicable provisions of the rules and regulations adopted by the department pursuant to Section 25-12-4, shall issue to each inspector of the insurance company a certificate of competency as a special inspector and to each inspector of the company operating a pressure vessel a certificate of competency as owner or user inspectors. Each inspector before receiving his or her certificate of competency shall satisfactorily pass the examination provided for by Section 25-12-11 or, in lieu of the examination, shall hold a commission or a certificate of competency as an inspector of boilers or pressure vessels from a state that has a standard of examination substantially equal to that of this state, or a commission as an inspector of boilers and pressure vessels issued by the National Board of Boiler and Pressure Vessel Inspectors. A certificate of competency as an owner or user inspector shall be issued to an inspector of a company operating pressure vessels in this state only if, in addition to meeting the requirements stated in this section, the inspector is employed full time by the company and is responsible for making inspections of pressure vessels used or to be used by the company and which are not for resale.

(b) The expenses or salary of special inspectors or owner or user inspectors shall not be paid by the state. The continuance of their certificates of competency shall be conditioned upon the special inspectors or owner or user inspectors continuing in the employ of the boiler insurance company or in the employ of the company operating pressure vessels in this state and upon their maintenance of the standards imposed by this chapter.

(c) The special inspectors or owner or user inspectors may inspect all boilers and pressure vessels insured or all pressure vessels operated by their respective companies. When inspected, the owners and users of the boilers and pressure vessels shall be exempt from the payment to the state of the inspection fees as prescribed in rules and regulations promulgated by the commissioner.

(Act 2000-315, p. 488, § 10.)

**§ 25-12-11. Examination of inspectors.**

The examination for chief, deputy, special, or owner or user inspectors shall be in writing and shall be held by the board or by an examining board appointed in accordance with the requirements of the National Board of Boiler and Pressure Vessel Inspectors, with at least two members present at all times during the examination. The examination shall be confined to questions the answers to which shall aid in determining the fitness and competency of the applicant for the intended service and may be those prepared by the National Board of Boiler and Pressure Vessel Inspectors. If an applicant fails to pass the examination, the applicant may appeal to the board for another examination which shall be given by the board after 90 days. The record of an applicant's examination shall be accessible to the applicant and employer of the applicant.

(Act 2000-315, p. 488, § 11.)

**§ 25-12-12. Certificate of competency -- Suspension, hearing, reinstatement.**

(a) An inspector's certificate of competency may be suspended by the commissioner after investigation and recommendation by the board for the incompetence or untrustworthiness of the holder of the certificate, for willful falsification of any matter or statement contained in the application of the inspector, or in a report of any inspection he or she made. Written notice of any suspension shall be given by the commissioner within 10 days of the suspension to the inspector and the employer of the inspector. A person whose certificate of competency has been suspended shall be entitled to an appeal to the board pursuant to Section 25-12-19 and shall be present in person and may be represented by counsel at the hearing of the appeal.

(b) If the board believes that an inspector is no longer qualified to hold his or her certificate of competency, the board, upon 10 days' written notice to the inspector and the employer of the inspector, shall hold a hearing at which the inspector and his or her employer shall have an opportunity to be heard. If, as a result of the hearing, the board shall find that the inspector is no longer qualified to hold his or her certificate of competency, the board shall recommend to the commissioner that the certificate of competency be revoked and the commissioner shall immediately revoke the certificate of competency.

(c) A person whose certificate of competency has been suspended shall be entitled to apply, after 90 days from the date of the suspension, for reinstatement of the certificate of competency.  
(Act 2000-315, p. 488, § 12.)

**§ 25-12-13. Certificate of competency -- Replacement upon loss or destruction.**

If a certificate of competency is lost or destroyed, a new certificate of competency shall be issued without further examination.

(Act 2000-315, p. 488, § 13.)

**§ 25-12-14. Certificate inspection.**

(a) The commissioner, the chief inspector, or any deputy inspector shall have free access, during reasonable hours, to any premises in the state where a boiler or pressure vessel is being constructed for use in, or is being installed in, this state for the purpose of ascertaining whether the boiler or pressure vessel is being constructed and installed in accordance with the provisions of this chapter.

(b)(1) On and after January 1, 2002, each boiler and pressure vessel used or proposed to be used within this state, except for pressure vessels covered by an owner or user inspection service as described in subsection (d) or except for boilers or pressure vessels exempt under Section 25-12-7, owners and users may request to waive this exemption, shall be thoroughly inspected as to their construction, installation, and condition as follows:

a. Power boilers and high pressure, high temperature water boilers shall receive a certificate inspection annually which shall be an internal inspection where construction permits; otherwise it shall be as complete an inspection as possible. The boilers shall also be externally inspected while under pressure, if possible.

b. Low pressure steam or vapor heating boilers shall receive a certificate inspection biennially with an internal inspection every four years where construction permits.

c. Hot water heating and hot water supply boilers shall receive a certificate inspection biennially with an internal inspection at the discretion of the inspector.

d. Pressure vessels subject to internal corrosion shall receive a certificate inspection every three years with an internal inspection at the discretion of the inspector. Pressure vessels not subject to internal corrosion shall receive a certificate of inspection at intervals set by the board.

e. Nuclear vessels within the scope of this chapter shall be inspected and reported in the form and with the appropriate information as designated by the board.

(2) A grace period of two months beyond the periods specified in paragraphs a. and b. of subdivision (1) may elapse between certificate inspections.

(3) The department may provide for longer periods between certificate inspection in its rules and regulations.

(4) Pursuant to this chapter, the department shall be responsible for providing for the safety of life, limb, and property and shall have jurisdiction over the interpretation and application of the inspection requirements as provided for in the rules and regulations which it has promulgated. The person conducting the inspection during construction and installation shall certify as to the minimum requirements for safety as defined in the ASME Code. Inspection requirements of operating equipment shall be in accordance with generally accepted practice and compatible with the actual service conditions, which shall include all of the following:

- a. Previous experience, based on records of inspection, performance, and maintenance.
- b. Location, with respect to personnel hazard.
- c. Quality of inspection and operating personnel.
- d. Provision for related safe operation controls.
- e. Interrelation with other operations outside the scope of this chapter.

(5) The board may permit variations in the inspection requirements based upon documentation of the actual service conditions by the owner or user of the operating equipment.

(c) The inspections required in this chapter shall be made by the chief inspector, by a deputy inspector, by a special inspector, or by an owner or user inspector provided for in this chapter.

(d) Owner or user inspection of pressure vessels shall be permitted. The owner or user inspection service shall be regularly established, and shall be under the supervision of one or more individuals whose qualifications are satisfactory to the board. The owner or user shall cause the pressure vessels to be inspected in conformance with the National Board Inspection Code or API 510, as applicable.

(e) If the inspector deems a hydrostatic test shall be necessary, it shall be made by the owner or user of the boiler or pressure vessel.

(f) All boilers, other than cast iron sectional boilers, and pressure vessels to be installed in this state after the 12-month period from the date upon which the rules and regulations of the board shall become effective, shall be inspected during construction as required by the applicable rules and regulations of the board by an inspector authorized to inspect boilers and pressure vessels in this state or, if constructed outside of the state, by an inspector holding a commission issued by the National Board of Boiler and Pressure Vessel Inspectors.

(Act 2000-315, p. 488, § 14.)

**§ 25-12-15. Inspection report; maintenance of records; inspection certificate.**

(a) Each company employing special inspectors, within 30 days following each certificate inspection made by the inspectors, shall file a report of the inspection with the chief inspector upon appropriate forms as promulgated by the commissioner. The filing of reports of external inspections, other than certificate inspections, shall not be required except when the inspections disclose that the boiler or pressure vessel is in a dangerous condition.

(b) Each company operating pressure vessels covered by an owner or user inspection service meeting the requirements of subsection (a) of Section 25-12-10 shall maintain in its files an inspection record which shall list, by number and any abbreviated description necessary for identification, each pressure vessel covered by this chapter, the date of the last inspection of each pressure vessel, and the approximate date for the next inspection. The inspection record shall be available for examination by the chief inspector or his or her authorized representative during business hours.

(c) If the report filed pursuant to subsection (a) shows that a boiler or pressure vessel is found to comply with the rules and regulations of the department, the chief inspector, or his or her duly authorized representative, shall issue to the owner or user an inspection certificate bearing the date of inspection and specifying the maximum pressure under which the boiler or pressure vessel may be operated. The inspection certificate shall be valid for not more than 14 months from its date in the case of power boilers, 26 months in the case of heating and hot water supply boilers, and 38 months in the case of pressure vessels. In the case of those boilers and pressure vessels covered by paragraphs a. to d., inclusive, of subdivision (1) of subsection (b) of Section 25-12-14, for which the board has established or extended the operating period between required inspections pursuant to the provisions of paragraphs c. and d. of

subdivision (1) of subsection (b) of Section 25-12-14, the certificate shall be valid for a period of not more than two months beyond the period set by the board. Certificates for boilers shall be posted under glass, or similarly protected, in the room containing the boiler. Pressure vessel certificates shall be posted in like manner, if convenient, or filed where they will be readily accessible for examination.

(d) No inspection certificate issued for an insured boiler or pressure vessel based upon a report of a special inspector shall be valid after the boiler or pressure vessel for which it was issued shall cease to be insured by a company duly authorized by this state to provide the insurance.

(e) The commissioner or his or her authorized representative may at any time suspend an inspection certificate after showing cause that the boiler or pressure vessel for which it was issued cannot be operated without menace to the public safety or when the boiler or pressure vessel is found not to comply with the rules and regulations adopted pursuant to this chapter. Each suspension of an inspection certificate shall continue in effect until the boiler or pressure vessel shall conform to the rules and regulations of the department and until the reinstatement of the inspection certificate.

(f) The commissioner or his or her authorized representative may issue a written order for the temporary cessation of operation of a boiler or pressure vessel if it has been determined after inspection to be hazardous or unsafe. Operations shall not resume until the conditions are corrected to the satisfaction of the commissioner or his or her authorized representative.

(Act 2000-315, p. 488, § 15.)

**§ 25-12-16. Reinspection; payment of fees.**

(a) Boilers and pressure vessels subject to operating certificate inspections by special inspectors, or owner or user inspectors, shall be inspected within 60 calendar days following the required reinspection date. Inspections not performed within this 60 calendar day period shall result in a fine of five hundred dollars (\$500) for each boiler or pressure vessel not inspected.

(b)(1) Inspection fees due on boiler and pressure vessels subject to inspection by the chief or deputy inspectors or operating certificate fees due from inspections performed by special inspectors, or owner or user inspectors, shall be paid within 60 calendar days of completion of the inspections.

(2) Inspection fees or operating certificate fees unpaid within 60 calendar days shall bear interest at the rate of 1.5 percent per month or any fraction of a month. Interest shall continue to accrue until all amounts due, including interest, are received by the commissioner.

(c) The commissioner may waive the collection of the penalties and interest assessed as provided in subsections (a) and (b) when it is reasonably determined that the delays in inspection or payment were unavoidable or due to the action or inaction of the department.

(Act 2000-315, p. 488, § 16.)

**§ 25-12-17. Operation without valid inspection certificate.**

After 12 months for power boilers, 24 months for low pressure steam heating, hot water heating, and hot water supply boilers, and 36 months for pressure vessels following July 1, 2001, it shall be unlawful for any person, firm, partnership, or corporation to operate in this state a boiler or pressure vessel, except a pressure vessel covered by owner or user inspection service as provided for in Section 25-12-15, without a valid inspection certificate. The operation of a boiler or pressure vessel without the inspection certificate or at a pressure exceeding that specified in the inspection certificate or in violation this chapter shall constitute a misdemeanor.

(Act 2000-315, p. 488, § 17.)

**§ 25-12-18. Disposition of fees.**

The owner or user of a boiler or pressure vessel required by this chapter to be inspected by the chief inspector or his or her deputy inspector shall pay directly to the chief inspector, upon completion of inspection, fees as prescribed in rules and regulations promulgated by the commissioner. Pressure vessel certificates of inspection fees shall not exceed ten dollars (\$10) annually. The chief inspector shall transfer all fees received to the General Fund of the State Treasury. All funds, pursuant to this chapter, deposited in the State Treasury shall be appropriated by the Legislature to the Commissioner of Labor pursuant to the Budget Management Act and Article 4 of Chapter 4 of Title 41.

(Act 2000-315, p. 488, § 18.)

**§ 25-12-19. Bond.**

The chief inspector shall furnish a bond in the sum of five thousand dollars (\$5,000) and each of the deputy inspectors employed and paid by the state shall furnish a bond in the sum of two thousand dollars



(\$2,000) conditioned upon the faithful performance of their duties and upon a true account of moneys handled by them, respectively, and the payment thereof to the proper recipient.

(Act 2000-315, p. 488, § 19.)

**§ 25-12-20. Appeal and review.**

(a) Any person aggrieved by an order or an act of the commissioner or the chief inspector under this chapter may, within 15 days of notice thereof, appeal from the order or act to the board which, within 30 days thereafter, shall issue an appropriate order either approving or disapproving the order or act. A copy of the order by the board shall be given to all interested parties.

(b) After any order or act of the board, any person aggrieved thereby may file a petition in the Circuit Court of Montgomery County for review pursuant to the Alabama Administrative Procedure Act.

(Act 2000-315, p. 488, § 20.)

**§ 25-12-21. Preemption.**

No county, municipality, or other political subdivision shall have the power to make any laws, ordinances, or resolutions providing for the construction, installation, inspection, maintenance, and repair of boilers and pressure vessels within the limits of the county, municipality, or other political subdivision.

(Act 2000-315, p. 488, § 21.)

**§ 25-12-22. Sunset provision.**

The Board of Boilers and Pressure Vessels shall be subject to the Alabama Sunset Law, Title 41, Chapter 20, as an enumerated agency as provided in Section 41-20-3, and shall have a termination date of October 1, 2004, and every four years thereafter, unless continued pursuant to the Alabama Sunset Law.

(Act 2000-315, p. 488, § 22.)

## **Board Members**



BOB RILEY  
GOVERNOR

### **STATE OF ALABAMA DEPARTMENT OF LABOR**

100 NORTH UNION STREET-SUITE 620  
P.O. BOX 303500  
MONTGOMERY, ALABAMA  
ZIP 36130-3500

PHONE (334) 242-3460

FAX (334) 240-3417



JIM BENNETT  
COMMISSIONER

SAFETY DIVISION  
CHIEF  
RALPH PATE

June 26, 2007

The following individuals comprise the Board of Boiler and Pressure Vessels.

**Dr. David Dyer**

**ddyer@eng.auburn.edu**

2616 Orchard Circle  
Auburn University, AL 36849  
Ph # 334-844-3305  
White Male  
Represents Public/Engineering Schools  
Originally Appointed September 10, 2003  
Current Term Expires September 10, 2007  
Officer/Chairman  
Currently No Vacancies

**Jim Bennett**

**jbennett@alalabor.alabama.gov**

Commissioner, Dept of Labor  
112 Meadow Croft Circle  
Birmingham, AL 35242  
White Male  
Represents Dept of Labor  
No Term Limit

**Mr. R. Barry Latham**

**blatham@mcabeeconstruction.com**

4211 Lake Bend Drive  
Tuscaloosa, AL 35405  
205-349-2212  
White Male  
Represents Boiler and Pressure Vessel Manufacturers  
Originally Appointed September 10, 2003  
Current Term Expires September 10, 2007

**Mr. Jerry Rhodes**

**jerry.rhodes@wgint.com**

1721 Cedar Bend Road, North  
Southside, AL. 35907  
Ph # 256-240-2386 ext. 2050

White Male  
Represents Owners and Users/Pressure Vessels  
Originally Appointed September 10, 2003  
Current Term expires March 28, 2008

**Mr. Ed Ray Sullivan**  
448 Price Drive  
Birmingham, AL 35215  
Ph # 205-591-5555  
White male

**jsull90444@aol.com**

Represents Heating Contractors  
Originally Appointed September 10, 2003  
Current Term expires March 28, 2008

**Mr. Gene R. Canavan**  
1499 Forest Trail  
Prattville, AL 36066  
Ph# 334-361-5615  
White Male  
Represents Owners and Users of Heating Boilers  
Originally Appointed September 10, 2003  
Current Term Expires November 18, 2009

**genekathy@knology.net**

**Mr. Steve Speed**  
155 Raccoon Branch Road  
Jasper, AL 35504  
Ph# 205-387-7051  
White Male  
Represents Crafts Trade (Boilermakers)  
Originally Appointed September 10, 2003  
Current Term Expires September 10, 2006

**stevespeed@bellsouth.net**

**Mr. Joe Pledger**  
5862 Vaughn Drive, East  
Satsuma, AL 36572  
Ph# 251-675-1989  
White Male  
Represents Owners and Users of Power Boilers  
Originally Appointed September 10, 2003  
Current Term Expires September 10, 2006

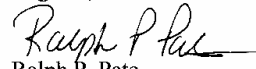
**joepledger@ibew.org**

**Jerry W. Godwin**  
1113 Sneed Drive  
Atmore, AL 36502  
Ph# 251-368-8916  
White Male

**jgodwin@spt.com**

Represents Companies licensed to Insure Boilers/Pressure Vessels  
Originally Appointed November 18, 2005  
Current Term Expires November 18, 2009

Regards,



Ralph P. Pate

## **RESPONSE TO SIGNIFICANT ITEMS**

**STATE OF ALABAMA  
DEPARTMENT OF LABOR**

100 NORTH UNION STREET-SUITE 620

P.O. BOX 303500

MONTGOMERY, ALABAMA

ZIP 36130-3500

PHONE (334) 242-3460

FAX (334) 240-3417



September 27, 2007

John E. Norris  
Examiner of Public Accounts  
Director, Operational Division  
Gordon Persons Building  
50 North Ripley Street, Room 3201  
Montgomery, AL. 36104-3833

Dear Mr. Norris,

Attached are the significant items you provided, and the departments response directly underneath.

If you have any questions, please do not hesitate to contact me.

I would like to take this opportunity to express my gratitude to Christine Parish and Janet Berry for all their help and suggestions.

Regards,



Ralph P. Pate

## **SIGNIFICANT ITEMS**

1. **The board's receipts are not deposited into the General Fund, as required by law.** The *Code of Alabama, 1975* Section 25-12-18 states "The owner or user of a boiler or pressure vessel required by this chapter to be inspected by the chief inspector or his or her deputy inspector shall pay directly to the chief inspector, upon completion of inspection, fees as prescribed in rules and regulations promulgated by the commissioner. Pressure vessel certificates of inspection fees shall not exceed ten dollars (\$10) annually. *The chief inspector shall transfer all fees received to the General Fund of the State Treasury. All funds, pursuant to this chapter, deposited in the State Treasury shall be appropriated by the Legislature to the Commissioner of Labor pursuant to Budget Management Act and Article 4 of Chapter 4 of Title 41.*"

The intent of the emphasized language appears to be to preserve for the Department of Labor all deposits of boiler and pressure vessel fees. However, deposit of the fees into the General Fund would thwart this intent.

Deposits into the General Fund are not reserved for any agency or purpose, but become an indistinguishable part of the overall balance in the General Fund. No agency can spend money from the General Fund without a legislative appropriation, which is not a transfer of money to the agency but only an authorization to spend a certain amount from the overall balance in the General Fund. Appropriations to the various agencies from the General Fund are made in annual appropriation acts (budgets) in which the individual appropriations are not based on any specific source of deposits into the General Fund. At the close of a fiscal year, General Fund appropriations lapse, and the authority to spend from the General Fund ceases to exist until a budget for the next fiscal year takes effect.

Consequently the first sentence, which states, "*The chief inspector shall transfer all fees received to the General Fund of the State Treasury.*" is not compatible with the next sentence which states, "*All funds, pursuant to this chapter, deposited in the State Treasury shall be appropriated by the Legislature to the Commissioner of Labor pursuant to Budget Management Act and Article 4 of Chapter 4 of Title 41*"

In order to preserve all deposits of boiler and pressure vessel fees for use by the Department of Labor, the department deposits the fees into a separate fund (576) in the State Treasury, which is used for federal and local receipts and for which the department is allowed to retain year end balances. Should the board have deposited its fees into the General Fund as required by law, the fees would not have been preserved for the use of the Department of Labor.

Unsuccessful legislation to correct this discrepancy was sponsored by Representative Laird in the 2005 (HB739) and 2007 (HB659) legislative sessions.

### **RESPONSE TO SIGNIFIGANT ITEM # 1**

The department would be grateful to see this corrected through Sunset Legislation. If not, we would continue our efforts to correct this through the regular legislative process.

2. **There is no provision in the law for an administrative penalty such as a warning or citation preliminary to suspension of a certificate of operation or an order to cease operation.** The *Code of Alabama 1975*, Section 25-12-15 (e) and (f) authorizes the commissioner or his/her representative to suspend an inspection certificate after showing cause and to issue a written order to temporarily cease operation of a boiler or pressure vessel if it is determined after inspection to be hazardous or unsafe. The law does not authorize lesser measures such as warnings or citations. The department expressed a desire for such preliminary steps. Legislation to authorize warnings and citations (HB 659) was sponsored by Representative Laird in the 2007 legislative session. The bill did not pass.

### **RESPONSE TO SIGNIFICANT ITEM # 2**

Any help with this finding would be greatly appreciated. Violations can be cataloged as lesser to serious. The lesser violations collectively can be serious. It would be better for the board to have the authority to administer civil penalties that provide for less than a misdemeanor, to address the lesser violations. If no action is taken by Sunset Committee, the department would address this again through the regular legislative process.

3. **Statutes now in effect provide that a violation is a misdemeanor but specifies no misdemeanor classification.** The *Code of Alabama 1975*, Section 25-12-17 states only that, "The operation of a boiler or pressure vessel without the inspection certificate or at a pressure exceeding that specified in the inspection certificate or in violation of this chapter shall constitute a misdemeanor." The department expressed a desire to classify the misdemeanor as "Class A". Legislation to make this amendment was sponsored by Representative Laird in the 2007 legislative session as HB 659. The bill did not pass.

### **RESPONSE TO SIGNIFICANT ITEM # 3**

Any help with this finding would also be greatly appreciated as well. If no action is taken by Sunset Committee, the department would address this again through the regular legislative process.

4. **Applicants without certification cannot obtain certification by application to the Alabama Board of Boilers and Pressure Vessels.** The Alabama board requires its applicants to be certified by the National Board of Boiler and Pressure Vessels, which includes passing a National Board examination. The National Board accepts payment only from the states that have a chief inspector, and does not accept payment from individual applicants. Alabama has a chief inspector and has adopted and published administrative rules that describe the process for being examined and becoming certified in Alabama. However, the Alabama Board does not make the National



Board examination available, citing the need for an examination fee, which Alabama statutes do not authorize. Persons in Alabama seeking initial certification must apply through other states. In this area, an applicant may take the exam in Georgia, Tennessee, or Mississippi. Legislation authorizing an examination fee was sponsored by Representative Laird in the 2007 legislative session as HB 659. The bill was not successful.

Considering the financial status of the board and the number of potential applicants for initial certification, it is possible that inspection fees will provide sufficient funding to cover the cost of examinations without the need to collect a separate examination fee.

#### **RESPONSE TO SIGNIFICANT ITEM # 4**

The department will now administer the examination for certification to become a boiler inspector and absorb the cost incurred. We would appreciate any efforts by the Sunset Committee to address this, or the department can address this through the regular legislative process.

5. **The term “manufacturing process” is not defined in the law or in the board’s administrative rules, a condition that has created controversy as to whether an inspector can inspect some plants.** The *Code of Alabama 1975*, Section 25-12-7 (a) (13) provides an exemption for boilers and pressure vessels operated and maintained as part of a manufacturing process. One of six responding board members and four of the forty-one responding inspectors think it is necessary to define “manufacturing process”. There is controversy as to whether “manufacturing process” refers to the making of a final product from raw materials (the output would be totally different from the input) or if it encompasses, for example, a meat processing plant where the output is not actually “manufactured”. At issue is whether an inspector can inspect a food processing plant’s boilers.

#### **RESPONSE TO SIGNIFICANT ITEM # 5**

On advice from council, and the majority of the board, the department believes this does not need to be addressed statutorily; that it will always be an open ended question, and best handled on an individual bases. The department feels the only real fix would be to have the exception removed from the statute entirely.

6. **Some members of the board and some inspectors believe the state needs more inspectors.** Two of six responding board members responding to a questionnaire stated that more inspectors are needed. Four of forty-one responding inspectors also indicated a need for more inspectors. The board recently hired a second inspector to complete annual inspections and re-inspections state-wide. So far in fiscal year 2007, over 3,000 certificates of operation were issued. Certificates of operation are necessary to lawfully operate a boiler or pressure vessel.

#### **RESPONSE TO SIGNIFICANT ITEM # 6**

The department currently has 3 deputy inspectors, and licenses over 100 special inspectors. The department and the majority of the board feel this is adequate for now.

7. **Legislation submitted in the 2007 legislative session to amend the boiler and pressure vessel regulatory program was not successful.** HB659 of the 2007 regular session, sponsored by Representative Laird; would have made the following amendments:
- Authorized the chief inspector to issue warnings and citations for violations with a civil penalty of \$500 per citation.
  - Authorized the board to impose fees for inspector examinations and certificates of competency.
  - Provided that the commissioner, the chief inspector, or any deputy inspector with access to boilers and pressure vessels operated in the state. (Section 27-12-14)
  - Clarified the statute by classifying the operation of a boiler or pressure vessel without a certificate of operation as a Class A misdemeanor.

#### **RESPONSE TO SIGNIFICANT ITEM #7**

HB659 also had a provision to correct the discrepancy concerning depositing of funds as described in significant item # 1.

Any or all items in HB659 not corrected by Sunset will be reintroduced during the next regular session of the legislature.